

September 17, 2018

Mr. John Canoles
Eco-Science Professionals, Inc.
P.O. Box 5006
Glen Arm, MD 21057

Re: 111 Hanover Pike
Forest Conservation Variance
Tracking #03-18-2797

Dear Mr. Canoles:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability, Title 6 Forest Conservation was received by this Department on August 27, 2018. This request proposes to base the afforestation required by Section 33-6-111 of the Forest Conservation Law on the 0.5-acre limit of disturbance (LOD) rather than the entire 5.2-acre property to construct a new storage building on an existing commercial site. No forest, specimen trees, streams wetlands or associated buffers exist onsite. The property straddles the Baltimore/Carroll County line with 3.1 acres of the property within Baltimore County. Using the LOD as the net tract area on the forest conservation worksheet would require the applicant to provide 0.1 acre of reforestation instead of 0.5 acre required under full compliance.

The Director of the Department of Environmental Protection and Sustainability (EPS) may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner to show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. The property currently contains several storage trailers and is being used by Brothers Roofing for retail, office, storage, parking, and equipment staging. As such, the petitioner is already realizing significant use of the property without the proposed development. Consequently, full application of the law to the entire property would not deprive the applicant of all beneficial use of the property. It would

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only affect the cost of complying with this law. Therefore, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d) (2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The petitioner's plight is due to unique budgetary circumstances not associated with general conditions in the neighborhood. Consequently, we find that the second criterion has been met.

The third criterion (Subsection 33-6-116(d) (3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The surrounding neighborhood consists of mixed residential and commercial properties. The site is presently developed and used a commercial enterprise, which will continue after the project is complete. Granting the variance to reduce costs of expanding and consolidating commercial functions by constructing a new warehouse facility will not alter the essential character of the neighborhood. Therefore, this criterion has been met.

The fourth criterion (Subsection 33-6-116(e) (1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The project will not impact any stream, wetland, floodplain, steep slope, or forest. Furthermore, appropriate sediment and erosion control techniques will be implemented to ensure that any runoff generated from the disturbance area is treated before leaving the site. Cisterns are proposed to aid in management of runoff from the new building post-construction, improving water quality from current conditions, as no stormwater management currently exists onsite. As a result, the proposed variance will not adversely affect water quality; thus, this criterion has been met.

The fifth criterion (Subsection 33-6-116(e) (2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any prior actions affecting the property to necessitate this variance request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Reducing the reforestation obligation based on the LOD for the construction of the new storage warehouse would be consistent with the spirit and intent of the Forest Conservation Law. This is especially true given the minimal size of the LOD and the fact that no forest or specimen trees would be impacted. Therefore, this criterion has been met.

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Based on our review, this Department finds that all required variance criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code contingent upon the following conditions:

1. The LOD shall be limited to the 0.5 acre area shown on the plans accompanying the variance application.
2. The 0.1 acre of reforestation shall be addressed by either purchase of credit in an EPS-approved forest retention bank or by payment of a \$2,178.00 fee in lieu of afforestation by December 17, 2018 or prior to issuance of any permit for this activity.
3. The following note must be on all plans for this project:

A variance was granted on September 17, 2018 by Baltimore County Dept. of Environmental Protection & Sustainability to allow afforestation requirements to be based on the 0.5-acre limit of disturbance for the construction of the new storage warehouse rather than the entire 5.2-acre property. Conditions were placed on this variance to ensure that the spirit and intent of the Forest Conservation Law were met in constructing the improvements.

4. A simplified forest stand delineation and forest conservation plan shall be submitted to and approved by EPS staff prior to grading and sediment control plan approval.
5. Granting this variance does not exempt future development activities on this property from full compliance with the Forest Conservation Law.

It is the intent of this Department to approve this variance. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the party responsible for meeting the conditions of this variance sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

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If you have any questions regarding this correspondence, please call Ms. Libby Errickson at (410) 887-3980.

Sincerely yours,

David V. Lykens
Deputy Director

DVL/lbe

c. Mr. John Martindale, 111 Hanover Pike LLP

I/we agree to the above conditions to bring my/our property into compliance with Baltimore County's Forest Conservation Law.

Owner's Signature

Date

Printed Name